

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>AMERICAN NUMISMATIC ASSOCIATION,</p> <p>v.</p> <p>Respondent:</p> <p>PROPERTY TAX ADMINISTRATOR.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Christopher Cipoletti Executive Director & General Counsel</p> <p>Address: 818 North Cascade Avenue Colorado Springs, Colorado 80903</p> <p>Phone Number: (719) 632-2646</p> <p>Attorney Reg. No.: 15858</p>	<p>Docket Number: 39390</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 5, 2003, Debra A. Baumbach and Judee Nuechter presiding. Petitioner was represented by Christopher Cipoletti, Esq.. Respondent was represented by Larry A. Williams, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Imps Only on Lot 8 Blk K Colo Spgs Add No 5 also known as 818 North
Cascade Avenue, Colorado Springs, Colorado
(Division of Property Taxation File No. 21-02170-01)**

Petitioner is protesting the property tax exemption denial issued by Respondent for tax year 2000 for the subject property, a building that is owned and operated by the American Numismatic Association (AMA).

ISSUES:

Petitioner:

Petitioner contends that they are a not-for-profit organization and that the Division of Property Taxation's position is that the library, museum and educational programs are a benefit for members and not an organization for the State of Colorado. American Numismatic Association's presence has a national membership with annual dues of \$33.00. This is considered a small amount as compared to other not-for-profit organizations. The museum is free and open to the public in Colorado Springs. Numismatics is the study of money. Approximately 97% of the museum visitors are non-members. The library is also open to the public and anyone who has a Colorado library card is allowed check out materials. The American Numismatic Association provides educational programs throughout the country that are generally free and open to the public. The Association takes educational programs to Colorado schools and assisted care facilities at no charge when requested. Convention programs are also generally provided free of charge. The educational program is currently housed at Colorado College in Colorado Springs and requires fees for the courses to offset the fees charged to the Association by the college. They teach museum curators about money. Coins in the Classroom is a program for middle school teachers to use in their curriculum that teaches the history of money and is fully funded by the Association. AMA feels that they provide a benefit to the people of Colorado through education, the museum, the library, and a publication to anyone that chooses to subscribe. The organization is there to educate people about numismatics through their library and museum and does serve a charitable service and therefore should be allowed an exemption.

Respondent:

Respondent contends that the property is not owned and used strictly for charitable purposes. The organization has been in existence for a long period of time. The subject property is a non-residential property and has not been used solely for charity based on information provided by the Petitioner. The Respondent will show that the primary goal of the organization has not been proven to be charitable. The total picture indicates a club for members with a museum and library as secondary. Based on the regulations provided by the Division of Property Taxation, the Respondent does not believe that this organization meets the criteria for an exempt property.

FINDINGS OF FACT:

1. Petitioner's first witness, Edward C. Rochette, Executive Director Emeritus, has been employed since 1966 by the American Numismatic Association (ANA). He retired in 1987 and in 1998 was called out of retirement.

2. The witness testified that the ANA's purpose is to fulfill the mandate by Congress to promote numismatics as a means to promote the history of money or how coins relate to history.

3. The witness introduced a publication by the Association, *The Numismatist*, which has been in continual publication since 1988 and has been recognized as educational by the U.S. Post Office. It is a journal that provides research articles for collectors regarding monetary history, collecting, etc. and is published monthly. The journal is part of the membership package. The material in the journal is educational in nature and provides a study of early history as indicated by coinage. The advertising is limited to numismatic ads to cover the costs of publication by the Association.

4. The witness testified that the American Numismatic Association offers educational seminars at their conventions about ancient coins, world coins, and American coins to track for historical purposes. Educational programs are offered to members and non-members. The summer seminar is held at Colorado College where 450 students attended last summer. Mr. Rochette indicated that the seminar has grown continuously since its inception. As a student at the seminar, one can learn coin design to the history of paper money. Other programs are offered at their two conventions held annually. They anticipate 15,000 for the Denver convention to be held in 2006. Attendance at the convention is open to anyone at no charge. Education exhibits on the convention floor and general public exhibits are free. There are some classes that require a fee, such as Detection of Counterfeit Coins.

5. Mr. Rochette testified that the museum was renovated to attract more visitors and have meaningful exhibits for the general public. Thematic exhibits were presented in the museum. School groups and the general public are the target groups for the museum. Exhibits are changed on a regular basis. The Association has had joint exhibits with the Colorado Springs Fine Arts Museum.

6. The witness presented a handout given to numismatic clubs for school children that tells about an exhibit they had at the museum for children and a brief history of coins. This was a free handout mailed to clubs and is available at the museum. Approximately 100,000 handouts were printed. The Association feels this is considered educational.

7. The witness testified that the library has been in existence since the Association was founded. AMA has over 60,000 books from the most rare to more common publications. One area of the library has an encyclopedia of Chinese dynasties of which there are only seven known complete sets in the world. The library provides a climate-controlled area for their rare books. These books cannot be checked out. One does not have to be a member of the Association to checkout books from the library.

8. The witness testified that the American Numismatic Association believes their charter by the federal government allows for them to promote the education of money.

9. Mr. Rochette testified that the Association engages in outreach programs with the library and museum for the people of Colorado Springs. Colorado College has had special exhibits and the summer seminars. Other programs include groups that tour the facilities such as nursing

homes and school class groups on field trips. Guided tours are provided by volunteer guides. Coins are given to schoolchildren to get them interested in collecting during these tours at no charge.

10. Under cross-examination, the witness indicated that the American Numismatic Association is basically a group of people studying money. To some it is a hobby and to others it is a discipline. People who participate in numismatics can have collections with a high monetary value. Coin hobbyists can use the Association to discover the value of their collections. The magazine provides considerable advertising for dealers, coin auctions, and other services for coin collectors. The publication can be used as a mechanism to purchase or sell coins for members. There is also political information in their magazine for the members for elections.

11. During cross-examination, the seminar course catalog was discussed in regards to available scholarships. The witness testified that scholarships are not limited to members. Mr. Rochette did not know the dollar amount of scholarships given in 2002 from the association.

12. The witness testified that honorary members have fees waived for classes. Honorary memberships are generally given to governmental dignitaries or politicians. Mr. Rochette did not know if there were other free memberships given to the general public. He could not answer why an additional \$100.00 fee for non-association members was advertised in the course registration catalog. The witness did not know how many non-members attended the courses held last year. The summer seminar does charge a fee for participation.

13. The witness testified, under cross-examination, that the magazine they publish is free although shipping and handling is charged through the annual dues.

14. During cross-examination, Mr. Rochette indicated that the purpose of inviting school children to the museum is to introduce them to collecting coins, which he believes is dictated by their federal mandate.

15. Mr. Rochette testified, under cross-examination, that research services at the library are for members and non-members and that they may charge some fees for those services. There are discounts available for purchasing books and videos to members. Members have no special place in the museum for storing their collections. Members can take their collections to the museum to place on exhibit, but not for storage. Rare coins can be exhibited at the museum, but the owner is not paid. They do not have coin auctions by members. Coin insurance was available to members at one time, but he does not believe they have it now. The brochure that was presented to the Board as Petitioner's Exhibit A is outdated and not currently used by the Association. The insurance that is advertised was offered through an insurance administrator and not the Association.

16. During redirect, the witness testified that membership in the American Numismatic Association is open to anyone around the world. Persons outside the State of Colorado have the same benefits through mail and the Internet. There are approximately 30,000 members in the Association, although he does not know the number of members from Colorado.

17. The witness testified, during redirect, that the Association believes that their federal charter indicates the objective of the Association is to advance the knowledge and history of

numismatics through education and not for the sole purpose of the benefit of its members.

18. Petitioner's second witness, Mr. Larry Lee, American Numismatic Association Museum Curator, was presented. He has been at the museum since September 2001. He was previously curator for two other museums.

19. Mr. Lee testified that the museum is open and free to the public. There are four galleries within the museum. One gallery is permanent; all others are rotating between one or three months to two to three years. The objective of the museum exhibits is to educate. It is thematic for the general public as there needs to be a story line for the people to relate. The staff determines what exhibits they want to show. The purpose of the museum is to educate. Maintenance of the collections and comparative research collection is also considered a function of the museum. Numismatics is a discipline, while coin collecting is a hobby. The American Numismatic Association's museum is more academic oriented. It is considered a learning environment. Attendance at the museum has been tracked since 2000. In 2002, slightly under 16,800 people visited the museum, which included 69 groups. During 2003, there have 6,100 visitors and 46 tours through the first third of the year. Ninety-seven percent of the visitors were not members of the Association. The sign-in sheets indicate some tracking of visitors, with the bulk of visitors from southern Colorado.

20. The witness testified that they do educational outreach with one staff member visiting schools including him visiting service clubs such as Saratoga and Rotary.

21. The witness has looked at collections of those who are not American Numismatic Association members. Most people that come in for an idea on what their collections are worth are not members. He can usually tell what a collection is worth within an hour.

22. Mr. Lee testified that he has been called by other museums, the Denver Mint, and colleges for information regarding numismatics. He has worked with banks since they must carry face value of money on the books although the numismatic content may be much higher. He does not charge a fee for this service. He identifies these coins for banks so they may sell for market value, although banks are not American Numismatic Association members.

23. The witness testified that the museum develops educational programs for the Association. The museum will label texts, develop press releases and incorporate them into on-line information and the newsletter. Seminar workshops are developed and presented by Mr. Lee. The museum is approximately 4,000 square feet upstairs and 2,000 square feet on the lower level in addition to three offices, storage, work, and off-site storage facilities. The museum takes approximately half of the building area and is open to the public at no charge seven days a week.

24. Under cross-examination, Mr. Lee told the Board that he is not a collector nor a dealer, but an independent evaluator. Museums do not give appraisals, but they go to a book that indicates how much the coins are worth. There are four old security safe-deposit boxes in the museum vault, and the same person, who is not a member, has stored their collection there since the beginning of the museum.

25. Mr. Lee testified, under cross-examination, that there are no other collections in the museum. There is clothing on the mannequins, but all exhibits are coin related.

26. Petitioner called Ms. Nancy W. Green, American Numismatic Association Librarian, as a witness. She has been at the library as an employee from 1976 to 1990, and she returned to the library in 2001. Her job is to provide reference information in the library about numismatics and to maintain the library.

27. The witness testified that just about anyone can check out materials from the library, which is a member of the Colorado Library Card Program. There is no fee charged for any library services. There is a minimum copy fee charged if a significant number of copies are requested. A \$35.00 research service for both members and non-members may be charged, although they generally do not charge. There are videos including over 250 taped programs, lectures and education programs from the past are available at the library. The web site has a video catalog on line. These are available for checkout to anyone. Other services at the library include identification of coins.

28. Under cross-examination, the witness testified that if Mr. Lee were not available, the library would assist in answering questions regarding numismatics. People needing extensive research may be charged. Although, this is generally used by non-members since members typically know what they are looking for at the library.

29. Under redirect, the witness testified that the library takes up approximately 3,000 square feet of the building.

30. During re-cross, Ms Green testified that rare book materials and a small core of reference books cannot be checked out by the public. Both members and non-members have the same rules in the library.

31. The Respondent's witness, Mr. Stan Stanley, is employed by the Division of Property Taxation to evaluate applications for property tax exemptions.

32. The witness testified that he reviewed the American Numismatic Association application filed in 1999 and that he visited the property. He prepared a memorandum that recommended the application be denied since the organization became a benefit of the membership. Most of the activities and money spent appeared to be for membership. He reviewed additional information supplied by the Petitioner, but did not change his mind. The brochures better illustrated some things that may be charitable in the Association, but only secondary to membership benefits, which are not considered charitable. He felt that the property was not used for charitable purposes, but to pursue a hobby for members. The museum and the library were considered as a secondary use for the Association. Education and outreach activities were considered as non-charity since fees were charged for some of these services even though these activities did provide a public benefit. In relation to the overall use of the property, it was not enough to offset membership benefits. Most of the Association's financial statements supported a significant portion was charitable, but not enough to support an exemption. The income statement did not provide sufficient evidence as to what the fees covered. Mr. Stanley indicated that he was given a tour of the entire facility including the

library, although he did not spend a lot of time there.

33. The witness testified that the Division of Property Taxation looks at other organizations that encourage hobbies and that they consider the application based strictly on charitable purposes. The traditional definition of charity is to provide education.

34. The witness indicated that the federal charter for the Association was not considered relevant since it did not make the impression that the organization was not member driven.

35. Mr. Stanley testified that he did take into account that the American Numismatic Association claims that part of the building is used for education. An investigation of the property did not indicate that the property was used solely for charitable purposes.

36. Under cross-examination, Mr. Stanley was asked for a clarification of exemption and what types of organizations meet the traditional definition. He does not know if the Denver Museum of Art is exempt. He was clear that this case did not meet the criteria when looking at the whole and member benefits. The museum and the library were secondary activities based on his general impression. The organization was not there to maintain the library and the museum, but focused on existence for members first.

37. During cross-examination, the witness indicated that he did not talk to the chief financial officer, but that he only used the applicant's information for assumptions. He did not feel any clarification of the financial statements was necessary in regards to the fees charged by the Association.

38. Mr. Stanley testified that he spent approximately one hour on a tour of the facility and that he did not make an appointment for that tour. He looked at the museum galleries, briefly looked in the library, post office, and administration offices to get an idea of how things were set up and what was there. He did not know who gave him the tour, nor did he ask for credentials to see if the tour guide was qualified. He assumed they were qualified and knowledgeable. He took notes, but did not retain his notes, as he generally does not keep notes after a report is written.

39. During cross-examination, the witness testified that the American Numismatic Association's national headquarters is for the organization as well as other uses. The library and museum are not stand-alone facilities, which would indicate member use and not charitable use. He indicated that he would have to look at the totality of the Denver Art Museum to declare if it would be exempt. If fees were charged, it would be exempt. He believes that a third to a half of the subject building is used for public purposes in part, but not exclusively, since there were some overlaps based on what the museum did for the public and for the membership. To his understanding, Mr. Stanley believed the tour guide indicated fee based services were only available to members.

40. The witness testified that his impression of American Numismatic Association was that it was a hobby during his initial investigation.

41. During redirect of the witness, Mr. Stanley indicated that he looks at how the organization works in order to make a determination for exemption, as well as how they hold themselves out to the general public.

42. In regards to membership benefits, the witness testified that no update was provided regarding insurance plans and whether or not it was available to the general public or just members. He believes it was just for members.

43. The witness testified that he is not familiar with Denver Art Museum or if membership is free or if they charge. It is there for the benefit and enjoyment of art and he believes it is there for the general public. The difference between the subject property museum and Denver Art Museum is the scale. He could not think of other outstanding differences between the two. Nothing that he observed showed a difference between libraries. He did not observe any of the educational programs or the operation of publication/magazine. Only a few books or magazines were observed in the library and nothing indicated that these were only for the members.

44. Mr. Stan Gueldenzopf, Division of Property Taxation Manager of Exemptions, works as reviewer of staff reports for compliance. He has been with the Division for 16 years and two years as manager. He reviewed the Association's report to see if it meets with standards and statute qualifications.

45. The witness testified that based on information supplied, which included a financial statement, the Association did not indicate charity and the other entries indicated membership based. He indicated there were discounts to members and higher fees for programs to non-members. The overall picture indicated that American Numismatic Association was not entitled to property tax exemption.

46. Mr. Gueldenzopf looks for categories that represent charity in financial statements. The books purchased for library (\$19,980.00) does indicate a charity activity, although educational media may. The expenses did not seem great in relation to the whole picture that could be attributed to charity.

47. The witness testified that he believes the library and museum are part of the overall whole, but this was not enough to qualify as a charitable organization. Other outside activities are a part of some charity organizations.

48. Mr. Gueldenzopf indicated that he looked at whether any of the Association's categories were solely and exclusively for charitable purposes. Scholarships provided to members only are not considered charity, such as the seminars. He has not seen any scholarship applications for non-members, only for members.

49. The witness testified that if an organization is providing services or benefits to members that are not available to general public, the Division of Property Taxation sees that as not demonstrating charity. They look for things given to non-members as charity.

50. During cross-examination, the witness testified that whatever is provided to non-members would indicate charity. The focus of the Denver Children's Museum (DCM) is solely on providing a museum for the public. The difference between the two organizations is that the congregation of people have a certain interest for numismatic and it is for their mutual interest. The Association's national conventions, insurance programs, etc. are tipped toward non-charity. DCM is designed for children and available to the public. Other programs available at DCM indicated charity. The Division of Property Taxation focused on the mission of DCM, not their benefits in determining their exempt status. The organizations operate differently, with the fundamental difference being that the American Numismatic Association operates for the benefit of its members. He did not feel that the financial statements indicated much to do with charitable income and expenses. Based on the financial statements provided to the witness, the salaries are approximately 32 percent of the budget.

51. Mr. Gueldenzopf testified that he viewed the Association's web site but did not specifically review the educational programs, the museum, the library, or the publication of *Numismatist*, although they were available. They appear to promote themselves as educational through the web site, although he did indicate that a members only area was seen on this web site.

52. Under redirect testimony, the witness stated that neither updated financial information nor the number of scholarships given by the Association was provided to the Division of Property Taxation by the Petitioner.

53. The Board asked the witness what stood out in the financial statement that indicated the Association was non-charity. He stated that the ratio of expenses seemed insignificant for charity.

54. During re-cross-examination, the witness testified that, based on the income statement that indicated advertising and promotion expenses of \$240,056.00, he did not understand how it was spent. He guessed it was not considered charity, although it could have been used to promote educational programs in Colorado Springs and to publicize the museum and library services. Computer systems could be for a charitable purpose, although he did not consider that either. The equipment maintenance and facility maintenance could be part of the charitable purpose, although it was not considered. The facility insurance expense for that portion used as museum and library would be charity. The Association's magazine was not an educational tool, but a benefit as he saw it. Salaries could be used as charity. Security was not considered as charity, although a museum typically requires security.

55. Ms. Nancy Green was recalled to testify that the Association does partner with other tax-exempt organizations in Colorado Springs. The summer reading program at the library gives students coins for reading books. They also have a treasure chest for the museum and the library patrons where they can draw out coins to peak an interest in coin collecting. Anyone who comes to the museum has access at no charge.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property does qualify for an exemption under the applicable CRS 39-3-108 for tax year 2000.

2. The Board was convinced that charity is a gift for the benefit of an indefinite number of persons and that the American Numismatic Association meets the criteria by providing a museum and a library to the general public at no charge. Additionally, services are provided at no charge or at a typical or nominal fee for both members and non-members of the Association. The dues that are collected by the American Numismatic Association are minimal.

3. The Petitioner convinced the Board that the Association does provide education to the general public, as well as to their members, and that their educational programs and seminars are open to the public and not just to members.

4. The Board considered that tax-exempt organizations might have member dues, reasonable employee salaries and other sources of income from donors. Buildings used by tax-exempt organizations generally have offices to conduct business. The expenses and income for the American Numismatic Association appeared reasonable with expenses such as insurance, salaries and maintenance typical for tax-exempt improvements.

5. The Board believes that the Petitioner did meet the guidelines of lessening the burden of government in that they provide a charitable service to the Denver Mint and other government agencies regarding numismatics. Otherwise, that work would have to be undertaken at public expense.

6. The Board was not convinced that the American Numismatic Association is a hobby club for coin collectors. It appears that the organization's goals through their federal charter are to educate, record history, and provide a service to government, the general public, and its 30,000 members in numismatics. Through testimony from the Petitioner, services are provided to entities outside the United States, as well as to anyone within the United States that might request a service. The Board believes this is a charity function based on the organization's actual conduct that was presented in this hearing.

ORDER:

The Respondent is ordered to exempt the subject property.

APPEAL:

If the above decision of the Board is against the Petitioner, the Petitioner may petition the Court of Appeals for judicial review thereof according to the Colorado Appellate Rules and the provisions of section 24-4-106 (11) CRS. If the above decision of the Board is against the Respondent, the Respondent, upon the recommendation of the Board that it is a matter of statewide concern, may petition the Court of Appeals for judicial review according to the Colorado Appellate Rules and the provisions of section 24-4-106 (11) CRS.

DATED and MAILED this 27th day of June, 2003.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Judee Nuechter

Judee Nuechter

This decision was put on the record

JUN 27 2003

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Penny S. Lowenthal
Penny S. Lowenthal

